

Syria – Arms Embargo Options

Overview

The situation in Syria is deteriorating sharply. The humanitarian crisis is appalling, and still the Assad regime refuses to enter into political negotiations. Tens of thousands are dead, and many millions are in need of urgent humanitarian assistance. Millions more have fled the country. With the likely use of chemical weapons and the growth of extremism, the conflict has entered an even more dangerous phase.

As the UK and French Foreign Ministers set out in their joint letter of 21 March, the UK and France want a political solution to this conflict. We need to put more pressure on the Assad regime to come to the negotiating table, and we must consider all the options, includes the ability to give further assistance to the moderate Syrian opposition. Amending the EU arms embargo in this way will strengthen the moderate opposition relative to extremists; we need to head off any reliance by the moderate Syrian opposition on Islamist-backed armed groups to fight a well-armed Syrian regime. It will also protect civilians, and save lives. Crucially, it will ensure we can respond flexibly to a major escalation in the conflict, such as chemical weapons attacks.

This paper identifies options to amend the EU arms embargo on Syria in order to allow the supply of a broader range of assistance, including lethal equipment, to the moderate Syrian opposition. The embargo should be amended in a way which allows further support consistent with international law **to be provided efficiently in practice.**

Options for adjusting the existing sanctions regime

At present, member states can provide the National Coalition in Syria with technical assistance and non-lethal equipment intended for the protection of civilians. The current language is in the annex below. We conclude that the best way to allow member states to amend the arms embargo to put pressure on the Assad regime is to use either of the two options below:

1. Fully exempt the National Coalition from the arms embargo

This option would amend the EU arms embargo exemption so that the embargo would no longer apply to the National Coalition for Syrian Revolutionary and Opposition Forces. The embargo on Syria was created in order to prevent the Assad regime from brutalising its own people. There is a strong argument that the embargo should not apply to the National Coalition, which has not been responsible for the systematic and oppressive violence against civilians perpetrated by the regime. This approach is consistent with the approach member states have adopted thus far with regards to financial and trade sanctions.

2. Remove ‘non-lethal’ language to allow lethal equipment to be supplied to the Coalition

This option would remove the words ‘non-lethal’ from the current arms embargo exemption. This would allow lethal equipment also to be provided, but no other changes would be made. Specifically, lethal equipment would still have to be ‘intended for the protection of civilians’. This would allow the EU to send a clear message to Assad that all options are on the table, thereby increasing the pressure on him to come to the negotiating table. It also allows EU member states greater flexibility to provide a greater range of equipment to the National Coalition so that it can protect civilians, including during extreme or unexpected circumstances.

A draft of the language amendments needed to effect these changes are also in the annex below.

Safeguards

The advantage of both of these options is that any equipment would be supplied only to an organised and accountable body; the National Coalition. On Saturday, 20 April, the National Coalition declared its commitment to democracy, ethnic and religious pluralism and the rule of law and eschews discrimination and extremism. It also declared it would guard against the proliferation of any supplied lethal equipment and would return such equipment at the end of the conflict, and confirmed that the Supreme Military council operates under the civilian authority of the Coalition. Allowing supply of equipment to an organised body which adheres to acceptable values lowers the risk of diversion and misuse in comparison to a more general lifting of the arms embargo.

Clearly we must ensure the National Coalition makes good on its commitments. If the EU were to amend the arms embargo, we would need to rigorously assess, monitor and review how any equipment was used in consultation with the National Coalition. We have worked over many months to build effective relations with the opposition and have gradually extended our network of contacts. We already identify the recipients of any assistance very carefully. Drawing on this and other information, we are able to ascertain with a sufficient degree of confidence where and how equipment will be used. We will need to take a similarly careful approach to any future supplies under an amended regime.

We are clear that we want to ensure any equipment provided is used only by those for whom it is intended, and is used for the right reason: protecting civilians. We are also clear that international law must be rigorously applied.

Next Steps

A renewal of the EU sanctions on Syria must be agreed by all 27 EU member states by 31 May 2013. We are therefore keen to begin practical discussions on options to amend the EU arms embargo with other EU member states as soon as possible so that consensus can be found.

AMENDMENT LANGUAGE ANNEX

Current arms embargo and exemptions language

Article 1(1)

“The sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression, to Syria by nationals of Member States or from the territory of Member States or using their flag vessels or aircraft, shall be prohibited, whether originating or not in their territories.”

Article 3(1)

“Article 1 shall not apply to:

[(a) UNDOF exemption]

(b) the sale, supply, transfer or export of non-lethal military equipment or of equipment which might be used for internal repression, intended for humanitarian or protective use or for the protection of civilians, or for institution building programmes of the United Nations (UN) and the European Union, or for European Union and UN crisis management operations, or for the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians;

(c) the sale, supply, transfer or export of non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for the protective use of personnel of the European Union and its Member States in Syria, or for the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians;

(d) the provision of technical assistance, brokering services and other services related to such equipment or to such programmes and operations;

(e) the provision of financing and financial assistance related to such equipment or to such programmes and operations;

(f) the provision of technical assistance, brokering services and other services for the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians,

on condition that such exports and assistance have been approved in advance by the relevant competent authority.”

Amendments to allow the supply of lethal equipment to the National Coalition

1. Fully exempt the National Coalition from the arms embargo

Article 3(1)

“Article 1 shall not apply to:...

(b) the sale, supply, transfer or export of non-lethal military equipment or of equipment which might be used for internal repression, intended for humanitarian or protective use or for the protection of civilians, or for institution building programmes of the United Nations (UN) and the European Union, or for European Union and UN crisis management operations, ~~or for the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians;~~

(c) the sale, supply, transfer or export of non-combat vehicles which have been manufactured or fitted with materials to provide ballistic protection, intended solely for the protective use of personnel of the European Union and its Member States in Syria, ~~or for the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians;...~~

(d) ~~the provision of technical assistance, brokering services and other services for the sale, supply, transfer or export of arms and related materiel of all types or equipment which might be used for internal repression to the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians;~~

(e) the provision of technical assistance, brokering services and other services related to such equipment or to such programmes and operations:

(f) the provision of financing and financial assistance related to such equipment or to such programmes and operations,

On condition that such exports and assistance have been approved in advance by the relevant competent authority.”

2. Remove ‘non-lethal’ language to allow lethal equipment to be supplied to the Coalition

Article 3(1)

“(b) the sale, supply, transfer or export of ~~non-lethal~~ military equipment or of equipment which might be used for internal repression, intended for humanitarian or protective use or for the protection of civilians, or for institution building programmes of the United Nations (UN) and the European Union, or for European Union and UN crisis management operations, or for the Syrian National Coalition for Opposition and Revolutionary Forces intended for the protection of civilians;